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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,572	02/04/2002	Masayuki Kuwabara	47779/DBP/A400	5850

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EXAMINER

BALI, VIKKRAM

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/067,572	Applicant(s) KUWABARA, MASAYUKI	
	Examiner Vikkram Bali	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 13 and 18 is/are rejected.
- 7) ☒ Claim(s) 2-5, 7-12, 14-17 and 19-24 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/26/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6, 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants Admitted Prior Art (herein after AAPA, see publication US 20030053675).

With respect to claim 1, AAPA discloses the defect candidate detection (see figure 3), where in a differential image is generated (figure 3 102), compared to a threshold to judge if the value exceeds the threshold in order to be a defect candidate (see figure 3 103, also see the description of figure 3 section 0011-0012). However, AAPA fails to disclose the absolute value, as compared. But, as a value is compared to the threshold it would be obvious to one ordinary skilled in the art at the time of invention to simply use any value i.e. absolute, imaginary or the combination of absolute and imaginary, in order to come up with a result that would show the defect candidate exist or not.

Claims 6, 13 and 18 are rejected for the same reasons as set forth in the rejection of claim 1, because claims 6, 13 and 18 are claiming similar subject matter as claim 1.

3. Claims 1, 6, 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroi et al (US 6347150).

With respect to claim 1, Hiroi discloses the defect candidate detection (see figure 3), where in a differential image is generated (figure 9, 122a-d), compared to a threshold to judge if the value exceeds the threshold in order to be a defect candidate (see figure 9, 24a, also see the description of figure 9 col. 9, lines 50-60). However, AAPA fails to disclose the absolute value, as compared. But, as a value is compared to the threshold it would be obvious to one ordinary skilled in the art at the time of invention to simply use any value i.e. absolute, imaginary or the combination of absolute and imaginary, in order to come up with a result that would show the defect candidate exist or not.

Claims 6, 13 and 18 are rejected for the same reasons as set forth in the rejection of claim 1, because claims 6, 13 and 18 are claiming similar subject matter as claim 1.

Allowable Subject Matter

4. Claims 2-5, 7-12, 14-17 and 19-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikkram Bali whose telephone number is 703.305.4510. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 703.308.6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vikkram Bali
Primary Examiner
Art Unit 2623



vb
October 29, 2004